Hibbard in Volume IV. of the HARVARD LAW REVIEW, p. 70.) It would seem, however, that the courts would have reached a more equitable result if they had treated the act of the defendant as inflicting a permanent damage for which compensation could have been given once for all. It is hard to treat as a continuing wrong an act sanctioned by the Legislature. The case rather resembles the taking of property by right of eminent domain than a continuing trespass. Besides, as the defendant contended, the plaintiff had received no substantial damage, as he acquired the property at a lower rate than he could otherwise have done. The decision, in effect, makes him a present of the damages recovered from the company. Still, the rule in New York is settled that such acts as those of the defendant are continuing trespasses. The court, therefore, had to choose between unsettling the law and inflicting in a few cases severe hardship on the defendant. In this view of the case it is difficult to find fault with the decision.

ALABAMA CLAIMS DECISION. — In *Williams* v. *Heard*,[1] the United States Supreme Court has added another chapter to the interesting history of the Alabama Claims award. The question was this; in 1882, it may be remembered, after paying off all the claims for direct losses, a surplus was found to be left over from the $15,000,000, and Congress thereupon voted to pay this to those who had paid high "war premiums" on insurance policies. Did this award pass as part of a bankrupt's property in an assignment made before 1882; that is, was there any such sufficient claim on this award as to be called property of the bankrupt?

The courts of four States — Maryland in 1887,[2] Massachusetts in 1888,[3] Maine in 1889,[4] and New York in 1890[5] — decided that the award did not belong to the assignees. The Supreme Court, following Chief Justice Field's dissenting opinion in the Massachusetts case, now decides that it *did* go to them as part of the bankrupt's property.

The State courts insisted as follows: That the Geneva tribunal awarded only for direct losses and expressly excluded payment for war premiums as contrary to international law. That the United States in its whole course was enforcing rights under the law of nations, and all that was allowed it was indemnity for those rights. That when she collected the award from England, she did so as a trustee for those whose claims she had been enforcing, *i. e.*, the claims of those suffering direct loss. There was no pretence that the United States received money on any trust to pay war premiums. Hence the bankrupt had no claim sounding in trust against the fund received from England. The award by Congress, in 1882, was therefore an "act of grace and bounty," "a pure gratuity," "a simple gift" to those who had no claim on any one, either legal or equitable. As there was no claim, nothing could pass by assignment.

This reasoning the Supreme Court entirely overrules. It first sets aside — very rightly, it would seem — the idea that *any one* had a claim to any part of the Geneva award. It denies that even the direct losers had a claim, or that the money was held in trust for them. Congress could distribute or hold the money as it saw fit.

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[1] Vol. II. Supreme Court Rep. 885.
[2] *Brooks* v. *Ahrens*, 68 Md. 212.
[3] *Heard* v. *Sturgis*, 146 Mass. 545.
[4] *Kingsbury* v. *Mattocks*, 17 Atl. Rep. 126.
[5] *Taft* v. *Warsily*, 24 N. E. Rep. 826.

Secondly, these war premiums of insurance were always recognized by our government as valid claims, and hence the United States was not bound as between its citizens by the decision of the Geneva tribunal as to international law.

The court saw, as all must see, that the idea of a pure gift as to these special payments was absurd and untenable unless the United States had been in the position at Geneva of arguing a groundless claim.

Was the claim property in any sense of the word? How does the court avoid calling ALL payments from the $15,000,000 mere gifts? It says, though no one had a strict right or claim on the fund, still there was a "possibility of payment," "an expectancy of interest in the fund." The claims having been recognized at Geneva by the United States as valid might become valuable if the United States chose to pay.

"They were then rights growing out of property; rights, it is true, not enforceable until after an act of Congress," but still rights of property, and hence they would pass on assignment.

It is worth while noticing that here we have a right which is a mere possibility of value, a right which cannot be enforced; *i. e.*, the owner of which is remediless, and yet which is still held to be property.

Analogous to this kind of right are the rights of a bondholder against a State. He has no remedy against it in case of failure to pay, but it is a true right of property. So perhaps the payment of the simplest debt of a sovereign State is a matter depending purely in its will, and yet a property right vested in the one to whom the payment, though uncertain, is due.

RIGHT TO COMPEL A COLLEGE TO CONFER A DEGREE. — An interesting case has recently come up before the New York Supreme Court, which decides in brief that a man who has obeyed all the college rules and paid all the term bills has a contract right to his degree. The complainant in *People ex rel. Cecil* v. *Bellevue Hospital Medical College*[1] petioned for a writ of mandamus "to compel the respondent to admit him to the final examination, and if he passed a suitable examination to give him a degree."

The court held that the college catalogue, the circulars issued, the course of study, and qualifications and fees specified, constituted an offer, and that "when a student matriculates under circumstances as set forth above it is a contract between the college and himself that if he complies with the terms therein prescribed he shall have the degree which is the end to be obtained. The corporation cannot take a student's money, allow him to remain and waste his time, . . . and then arbitrarily refuse to confer that which they promised; namely, the degree."

This seems to be laying it down clearly that a college cannot withhold a degree from one who has performed the requisite conditions; and that the coveted A.B. or M.D. is not merely a gratuitous favor.

The remedy in this case would seem at first peculiar, for a writ of mandamus is usually never granted in a case where there is any discretion to act or not to act in those against whom it is brought, *i. e.*, unless their duty in the matter is absolute and clear. But the court here held that an "arbitrary refusal is no exercise of discretion at all, but merely a wilful violation of the duties which they have assumed."

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[1] Vol. XIV. New York Supplement, May, 1891.